

STAYED,TYPE I-FOIA

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-00563-JEB**

CENTER FOR BIOLOGICAL DIVERSITY v. UNITED
STATES DEPARTMENT OF STATE
Assigned to: Judge James E. Boasberg
Cause: 05:552 Freedom of Information Act

Date Filed: 03/13/2018
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

**CENTER FOR BIOLOGICAL
DIVERSITY**

represented by **Howard M. Crystal**
CENTER FOR BIOLOGICAL
DIVERSITY
1411 K Street, NW
Suite 1300
Washington, DC 20005
(202) 849-8397
Email: hcrystal@biologicaldiversity.org
ATTORNEY TO BE NOTICED

Anchun Jean Su
CENTER FOR BIOLOGICAL
DIVERSITY
1411 K Street, NW
Suite 1300
Washington, DC 20005
415-770-3187
Fax: 510-844-7150
Email: jsu@biologicaldiversity.org
ATTORNEY TO BE NOTICED

V.

Defendant

**UNITED STATES DEPARTMENT
OF STATE**

represented by **David Scott Gualtieri**
U.S. DEPARTMENT OF JUSTICE
Env. & Natural Resources Division, Law
and Policy Section
PO Box 7415
Washington, DC 20044
(202) 514-4767
Email: David.Gualtieri@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Scott Leeson Sroka
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-7113
Fax: (202) 252-2599
Email: scott.sroka@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

JOHN J. SULLIVAN
JOHN J. SULLIVAN, in his official

represented by **David Scott Gualtieri**
(See above for address)

capacity as Acting Secretary of State for
the United States Dept. of State
TERMINATED: 12/07/2018

LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Scott Leeson Sroka
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

MICHAEL R. POMPEO
Secretary of State for the United States
Dept. of State

represented by **David Scott Gualtieri**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
03/13/2018	<u>1</u>	COMPLAINT against UNITED STATES DEPARTMENT OF STATE (Filing fee \$ 400 receipt number 0090-5370600) filed by CENTER FOR BIOLOGICAL DIVERSITY. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons, # <u>3</u> Summons, # <u>4</u> Summons, # <u>5</u> Certificate of Service)(Su, Anchun) (Entered: 03/13/2018)
03/14/2018		Case Assigned to Judge James E. Boasberg. (zsb) (Entered: 03/14/2018)
03/14/2018	<u>2</u>	SUMMONS (3) Issued Electronically as to UNITED STATES DEPARTMENT OF STATE, U.S. Attorney and U.S. Attorney General (Attachment: # <u>1</u> Notice and Consent)(zsb) (Entered: 03/14/2018)
03/23/2018	<u>3</u>	NOTICE of Appearance by Howard M. Crystal on behalf of CENTER FOR BIOLOGICAL DIVERSITY (Crystal, Howard) (Entered: 03/23/2018)
03/28/2018	<u>4</u>	LCvR 7.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by CENTER FOR BIOLOGICAL DIVERSITY (Attachments: # <u>1</u> Certificate of Service)(Su, Anchun) (Main Document 4 replaced on 3/29/2018) (znmw). (Entered: 03/28/2018)
03/30/2018	<u>5</u>	ENTERED IN ERROR.....REQUEST FOR SUMMONS TO ISSUE <i>as to the United States Attorney for the District of Columbia regarding Complaint <u>1</u> by Plaintiff's attorney Anchun Su</i> filed by CENTER FOR BIOLOGICAL DIVERSITY. (Attachments: # <u>1</u> Certificate of Service)(Su, Anchun) Modified on 4/2/2018 (znmw). (Entered: 03/30/2018)
04/02/2018		NOTICE OF ERROR re <u>5</u> Request for Summons to Issue; emailed to jsu@biologicaldiversity.org, cc'd 5 associated attorneys -- The PDF file you docketed contained errors: 1. Incorrect event used, 2. Incorrect document/case, 3. Please refile document, 4. ENTERED IN ERROR; Unclear whether this is a return of service or a request to reissue a summons; Refile as a Summons Returned Executed as to US Attorney (FOIA), if appropriate. (znmw,) (Entered: 04/02/2018)
04/05/2018	<u>6</u>	REQUEST FOR SUMMONS TO ISSUE <i>as to the United States Attorney for the District of Columbia</i> re <u>1</u> Complaint, filed by CENTER FOR BIOLOGICAL DIVERSITY. Related document: <u>1</u> Complaint, filed by CENTER FOR BIOLOGICAL DIVERSITY.(Su, Anchun) (Entered: 04/05/2018)
04/09/2018	<u>7</u>	NOTICE of Appearance by Scott Leeson Sroka on behalf of All Defendants (Sroka, Scott) (Entered: 04/09/2018)
04/11/2018	<u>8</u>	AMENDED COMPLAINT against All Defendants filed by CENTER FOR BIOLOGICAL DIVERSITY. (Attachments: # <u>1</u> Summons, # <u>2</u> Certificate of Service)(Su, Anchun) (Entered: 04/11/2018)
04/13/2018	<u>9</u>	SUMMONS (1) Issued Electronically as to JOHN J. SULLIVAN. (td) (Main Document 9 replaced on 4/13/2018) (ztd). (Entered: 04/13/2018)
05/02/2018	<u>10</u>	Consent MOTION for Extension of Time to File Answer re <u>8</u> Amended Complaint by JOHN J. SULLIVAN, UNITED STATES DEPARTMENT OF STATE (Sroka, Scott) (Entered: 05/02/2018)

05/04/2018		MINUTE ORDER GRANTING <u>10</u> Motion for Extension of Time to Answer. The Court ORDERS that Defendants shall respond to the Complaint on or before June 1, 2018. So ORDERED by Judge James E. Boasberg on 5/4/2018. (lcjeb3) (Entered: 05/04/2018)
05/04/2018		Set/Reset Deadlines: Responses due by 6/1/2018. (znbn) (Entered: 05/07/2018)
05/21/2018	<u>11</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. JOHN J. SULLIVAN served on 5/2/2018 (Su, Anchun) (Entered: 05/21/2018)
05/21/2018	<u>12</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 03/19/2018. (Attachments: # <u>1</u> Exhibit Exhibit A Return Receipts)(Su, Anchun) (Entered: 05/21/2018)
05/21/2018	<u>13</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES DEPARTMENT OF STATE served on 4/23/2018 (Attachments: # <u>1</u> Exhibit Exhibit A Return Receipts)(Su, Anchun) (Entered: 05/21/2018)
05/21/2018	<u>14</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 4/2/2018. Answer due for ALL FEDERAL DEFENDANTS by 5/2/2018. (Attachments: # <u>1</u> Exhibit Exhibit A Return Receipts)(Su, Anchun) (Entered: 05/21/2018)
06/01/2018	<u>15</u>	Unopposed MOTION for Extension of Time to File Answer re <u>8</u> Amended Complaint by JOHN J. SULLIVAN, UNITED STATES DEPARTMENT OF STATE (Sroka, Scott) (Entered: 06/01/2018)
06/01/2018		MINUTE ORDER GRANTING <u>15</u> Motion for Extension of Time to Answer. The Court ORDERS that Defendants shall respond to the Complaint on or before July 2, 2018. So ORDERED by Judge James E. Boasberg on 6/1/2018. (lcjeb3) (Entered: 06/01/2018)
06/01/2018		Set/Reset Deadlines: Responses due by 7/2/2018. (znbn) (Entered: 06/04/2018)
06/14/2018	<u>16</u>	NOTICE of Appearance by David Scott Gualtieri on behalf of All Defendants (Gualtieri, David) (Entered: 06/14/2018)
06/22/2018	<u>17</u>	Consent MOTION for Extension of Time to File Answer re <u>8</u> Amended Complaint by JOHN J. SULLIVAN, UNITED STATES DEPARTMENT OF STATE (Gualtieri, David) (Entered: 06/22/2018)
06/22/2018		MINUTE ORDER GRANTING Consent <u>17</u> Motion for Extension of Time to Answer. The Court ORDERS that Defendants shall respond to Claims 1 and 2 of the Complaint on or before August 29, 2018. So ORDERED by Judge James E. Boasberg on 6/22/2018. (lcjeb3) (Entered: 06/22/2018)
06/22/2018		Set/Reset Deadlines: Respond by 8/29/2018. (znbn) (Entered: 06/22/2018)
07/02/2018	<u>18</u>	ANSWER to <u>8</u> Amended Complaint by JOHN J. SULLIVAN, UNITED STATES DEPARTMENT OF STATE.(Sroka, Scott) (Entered: 07/02/2018)
07/02/2018		MINUTE ORDER: The Court ORDERS that the parties shall meet, confer, and submit a joint proposed briefing schedule by July 16, 2018. So ORDERED by Judge James E. Boasberg on 7/2/2018. (lcjeb3) (Entered: 07/02/2018)
07/02/2018		Set/Reset Deadlines: Joint Proposed Briefing Schedule due by 7/16/2018. (znbn) (Entered: 07/03/2018)
07/16/2018	<u>19</u>	Joint STATUS REPORT <i>On FOIA Claims</i> by CENTER FOR BIOLOGICAL DIVERSITY. (Crystal, Howard) (Entered: 07/16/2018)
07/16/2018		MINUTE ORDER: Per the parties' <u>19</u> Joint Status Report, the Court ORDERS that the parties shall file a further joint status report on or before September 14, 2018. So ORDERED by Judge James E. Boasberg on 7/16/2018. (lcjeb2) (Entered: 07/16/2018)
07/16/2018		Set/Reset Deadlines: Status Report due by 9/14/2018. (znbn) (Entered: 07/17/2018)
08/29/2018	<u>20</u>	MOTION to Partially Dismiss Amended Complaint by JOHN J. SULLIVAN, UNITED STATES DEPARTMENT OF STATE (Attachments: # <u>1</u> Memorandum in

		Support, # <u>2</u> Text of Proposed Order)(Gualtieri, David) Modified text on 8/29/2018 (ztd). (Entered: 08/29/2018)
09/05/2018	<u>21</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>20</u> MOTION to Dismiss <i>Partial as to First & Second Claims for Relief</i> by CENTER FOR BIOLOGICAL DIVERSITY (Crystal, Howard) (Entered: 09/05/2018)
09/05/2018		MINUTE ORDER GRANTING Plaintiff's <u>21</u> Motion for Extension of Time to File Response/Reply. The Court ORDERS that Plaintiff shall file its response to Defendants' Partial Motion to Dismiss on or before September 28, 2018. So ORDERED by Judge James E. Boasberg on 9/5/2018. (lcjeb3) (Entered: 09/05/2018)
09/05/2018		Set/Reset Deadlines: Responses due by 9/28/2018. (znbn) (Entered: 09/07/2018)
09/11/2018	<u>22</u>	NOTICE of filing Memorandum in Support of Motion to Partially Dismiss Amended Complaint with corrected hyperlinks by JOHN J. SULLIVAN, UNITED STATES DEPARTMENT OF STATE re <u>20</u> MOTION to Dismiss <i>Partial as to First & Second Claims for Relief</i> (Gualtieri, David) (Entered: 09/11/2018)
09/13/2018	<u>23</u>	Joint STATUS REPORT <i>as to FOIA Claims</i> by JOHN J. SULLIVAN, UNITED STATES DEPARTMENT OF STATE. (Sroka, Scott) (Entered: 09/13/2018)
09/13/2018		MINUTE ORDER: Per the parties' <u>23</u> Joint Status Report, the Court ORDERS that the parties shall file a further Joint Status Report by November 13, 2018. So ORDERED by Judge James E. Boasberg on 9/13/2018. (lcjeb3) (Entered: 09/13/2018)
09/13/2018		Set/Reset Deadlines: Joint Status Report due by 11/13/2018. (znbn) (Entered: 09/14/2018)
09/25/2018	<u>24</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>20</u> MOTION to Dismiss <i>Partial as to First & Second Claims for Relief</i> by CENTER FOR BIOLOGICAL DIVERSITY (Su, Anchun) (Entered: 09/25/2018)
09/25/2018		MINUTE ORDER GRANTING Unopposed <u>24</u> Motion for Extension of Time to File. The Court ORDERS that Plaintiff shall respond to Defendants' Partial Motion to Dismiss by October 5, 2018. So ORDERED by Judge James E. Boasberg on 9/25/2018. (lcjeb3) (Entered: 09/25/2018)
09/25/2018		Set/Reset Deadlines: Responses due by 10/5/2018. (znbn) (Entered: 09/26/2018)
10/05/2018	<u>25</u>	RESPONSE re <u>20</u> MOTION to Dismiss <i>Partial as to First & Second Claims for Relief Plaintiff's Opposition to Defendants' Partial Motion to Dismiss</i> filed by CENTER FOR BIOLOGICAL DIVERSITY. (Attachments: # <u>1</u> Text of Proposed Order)(Su, Anchun) (Entered: 10/05/2018)
10/09/2018	<u>26</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>20</u> MOTION to Dismiss <i>Partial as to First & Second Claims for Relief</i> by JOHN J. SULLIVAN, UNITED STATES DEPARTMENT OF STATE (Gualtieri, David) (Entered: 10/09/2018)
10/09/2018		MINUTE ORDER GRANTING Unopposed <u>26</u> Motion for Extension of Time to File Reply. The Court ORDERS that Defendants shall file their Reply to Plaintiff's Opposition to the Motion to Dismiss by October 23, 2018. So ORDERED by Judge James E. Boasberg on 10/9/2018. (lcjeb3) (Entered: 10/09/2018)
10/09/2018		Set/Reset Deadlines: Replies due by 10/23/2018. (znbn) (Entered: 10/10/2018)
10/23/2018	<u>27</u>	REPLY to opposition to motion re <u>20</u> MOTION to Dismiss <i>Partial as to First & Second Claims for Relief</i> filed by JOHN J. SULLIVAN, UNITED STATES DEPARTMENT OF STATE. (Gualtieri, David) (Entered: 10/23/2018)
11/08/2018	<u>28</u>	ORDER GRANTING <u>20</u> Motion to Partially Dismiss Amended Complaint. The Court ORDERS that (1) the First and Second Claims for Relief are DISMISSED WITHOUT PREJUDICE; and (2) if Plaintiff wishes to file an amended complaint, it must do so by December 10, 2018. Signed by Judge James E. Boasberg on 11/8/2019. (lcjeb1) (Entered: 11/08/2018)
11/08/2018	<u>29</u>	MEMORANDUM OPINION re <u>28</u> Order on Motion to Partially Dismiss. Signed by Judge James E. Boasberg on 11/8/2018. (lcjeb1) (Entered: 11/08/2018)

11/08/2018		Set/Reset Deadlines: Amended Pleadings due by 12/10/2018. (znbn) (Entered: 11/08/2018)
11/13/2018	<u>30</u>	Joint STATUS REPORT <i>as to FOIA Claims</i> by JOHN J. SULLIVAN, UNITED STATES DEPARTMENT OF STATE. (Sroka, Scott) (Entered: 11/13/2018)
11/13/2018		MINUTE ORDER ADOPTING the parties' <u>30</u> Joint Status Report. The Court ORDERS that the parties shall file another joint status report on or before January 14, 2019. So ORDERED by Judge James E. Boasberg on 11/13/2018. (lcjeb3) (Entered: 11/13/2018)
11/13/2018		Set/Reset Deadlines: Joint Status Report due by 1/14/2019. (znbn) (Entered: 11/14/2018)
12/07/2018	<u>31</u>	AMENDED COMPLAINT (<i>Second Amended Complaint</i>) against All Defendants filed by CENTER FOR BIOLOGICAL DIVERSITY.(Su, Anchun) (Entered: 12/07/2018)
12/21/2018	<u>32</u>	MOTION to Dismiss <i>First and Second Claims for Relief of Second Amended Complaint</i> , MOTION to Dismiss for Lack of Jurisdiction <i>First and Second Claims for Relief of Second Amended Complaint</i> by MICHAEL R. POMPEO, UNITED STATES DEPARTMENT OF STATE (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Text of Proposed Order)(Gualtieri, David) (Entered: 12/21/2018)
12/27/2018	<u>33</u>	MOTION for Extension of Time to File Response/Reply as to <u>32</u> MOTION to Dismiss <i>First and Second Claims for Relief of Second Amended Complaint</i> MOTION to Dismiss for Lack of Jurisdiction <i>First and Second Claims for Relief of Second Amended Complaint</i> by CENTER FOR BIOLOGICAL DIVERSITY (Su, Anchun) (Entered: 12/27/2018)
12/27/2018		MINUTE ORDER GRANTING Plaintiff's <u>33</u> Motion for Extension of Time. The Court ORDERS that Plaintiff shall respond to Defendants' Partial Motion to Dismiss by January 18, 2019. So ORDERED by Judge James E. Boasberg on 12/27/2018. (lcjeb2) (Entered: 12/27/2018)
12/27/2018		Set/Reset Deadlines: Response to Dispositive Motions due by 1/18/2019. (lsj) (Entered: 12/27/2018)
01/10/2019	<u>34</u>	MOTION to Stay , MOTION for Extension of Time to <i>in Light of Lapse in Appropriations</i> by MICHAEL R. POMPEO, UNITED STATES DEPARTMENT OF STATE (Attachments: # <u>1</u> Text of Proposed Order)(Hudak, Brian) (Entered: 01/10/2019)
01/11/2019		MINUTE ORDER GRANTING <u>34</u> Motion to Stay and Motion for Extension of Time. The Court ORDERS that: 1) The case is STAYED until appropriations are restored to the Department of Justice and Department of State; 2) All pending deadlines are hereby extended for a period of time equal to the calendar day duration of the lapse in appropriations; and 3) Defendants shall file a status report within 7 calendar days after Congress has appropriated funds for the above noted agencies. So ORDERED by Judge James E. Boasberg on 1/11/2019. (lcjeb3) (Entered: 01/11/2019)
02/01/2019	<u>35</u>	STATUS REPORT <i>as to FOIA Claims</i> by MICHAEL R. POMPEO, UNITED STATES DEPARTMENT OF STATE. (Sroka, Scott) (Entered: 02/01/2019)
02/01/2019		MINUTE ORDER: The Court ADOPTS Defendant's <u>35</u> Status Report and ORDERS that the parties shall file a Joint Status Report as to the FOIA claims by April 1, 2019. So ORDERED by Judge James E. Boasberg on 2/1/2019. (lcjeb3) (Entered: 02/01/2019)
02/01/2019		Set/Reset Deadlines: Joint Status Report due by 4/1/2019. (znbn) (Entered: 02/01/2019)
02/08/2019		MINUTE ORDER: The Court ORDERS that Plaintiff shall file its opposition to Defendants' <u>32</u> Motion to Dismiss by February 22, 2019. So ORDERED by Judge James E. Boasberg on 2/8/2019. (lcjeb3) (Entered: 02/08/2019)
02/08/2019		Set/Reset Deadlines: Response to Dispositive Motions due by 2/22/2019. (lsj) (Entered: 02/08/2019)

02/21/2019	<u>36</u>	STRICKEN PURSUANT TO MINUTE ORDER FILED ON 2/21/2019..... MOTION for Partial Summary Judgment <i>Regarding Article III Standing</i> by CENTER FOR BIOLOGICAL DIVERSITY (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit 1 (Wolf Decl.), # <u>3</u> Exhibit 2 (UNFCCC Text), # <u>4</u> Exhibit 3 (Senate Hearing Excerpts), # <u>5</u> Text of Proposed Order)(Crystal, Howard) Modified on 2/22/2019 (znbn). (Entered: 02/21/2019)
02/21/2019	<u>37</u>	Memorandum in opposition to re <u>32</u> MOTION to Dismiss <i>First and Second Claims for Relief of Second Amended Complaint and in Support of Motion For Partial Summary Judgment as to Article III Standing</i> filed by CENTER FOR BIOLOGICAL DIVERSITY. (Attachments: # <u>1</u> Exhibit 1 (Wolf Decl.), # <u>2</u> Exhibit 2 (UNFCCC Text), # <u>3</u> Exhibit 3 (Senate Hearing Excerpt), # <u>4</u> Text of Proposed Order)(Crystal, Howard) (Entered: 02/21/2019)
02/21/2019		MINUTE ORDER: The Court ORDERS that Plaintiff's <u>36</u> Memorandum is STRICKEN for violating the Court's Local Rule on excessive footnotes. Plaintiff may refile its pleading by February 25, 2019, if it contains no more than 10 footnotes containing no more than 50 aggregate lines of text. So ORDERED by Judge James E. Boasberg on 2/21/2019. (lcjeb3) (Entered: 02/21/2019)
02/21/2019		Set/Reset Deadlines: Plaintiff may refile its pleading by 2/25/2019. (znbn) (Entered: 02/22/2019)
02/22/2019	<u>38</u>	MOTION for Partial Summary Judgment <i>Regarding Article III Standing</i> by CENTER FOR BIOLOGICAL DIVERSITY (Attachments: # <u>1</u> Memorandum in Support (of Motion for Partial Summary Judgment and Opposition to Defendants' Partial Motion to Dismiss), # <u>2</u> Exhibit 1 (Wolf Declaration), # <u>3</u> Exhibit 2 (UNFCCC Text), # <u>4</u> Exhibit 3 (Senate Hearing Excerpts), # <u>5</u> Text of Proposed Order)(Su, Anchun) (Entered: 02/22/2019)
02/22/2019	<u>39</u>	Memorandum in opposition to re <u>32</u> MOTION to Dismiss <i>First and Second Claims for Relief of Second Amended Complaint and In Support of Motion for Partial Summary Judgment as to Article III Standiing</i> filed by CENTER FOR BIOLOGICAL DIVERSITY. (Attachments: # <u>1</u> Exhibit 1 (Wolf Declaration), # <u>2</u> Exhibit 2 (UNFCCC Text), # <u>3</u> Exhibit 3 (Senate Hearing Excerpts), # <u>4</u> Text of Proposed Order)(Su, Anchun) (Entered: 02/22/2019)